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September 17, 1998

**VIA HAND DELIVERY**

Ms. Magalie Roman Salas, Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, DC 20554

RECEIVED

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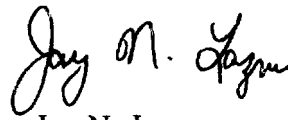
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: WT Docket No. 98-136  
Comments of Petroleum Communications, Inc.

Dear Ms. Salas:

On behalf of Petroleum Communications, Inc., we are transmitting an original and four copies of comments in the above referenced proceeding. Please date stamp the enclosed file copy and return it to the courier for delivery to our office. If you have any questions, please telephone me at (202) 371-0062.

Very truly yours,



Jay N. Lazrus

Enclosures

No. of Copies rec'd  
List A B C D E

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Before The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of )  
 )  
Amendments to Parts 2, 15, and )  
97 of the Commission's Rules )  
To Permit Use of Radio )  
Frequencies Above 40 GHz for )  
New Radio Applications )  
 )  
International Harmonization of )  
Frequency Bands Above 40 GHz )  
 )  
Petition of Sky Station )  
International, Inc., For )  
Amendment of the Commission's )  
Rules to Establish Requirements )  
for a Global Stratospheric )  
Telecommunications Service in )  
the 47.2-47.5 GHz and 47.9-48.2 )  
GHz Frequency Bands )  
 )  
Amendment to Part 27 of the )  
Commission's Rules to Revise )  
Revise Rules for Services in )  
the 2.3 GHz Band and to Include )  
Licensing of Services in the )  
47 GHz Band )

ET Docket No. 94-124

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RM-8784

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

WT Docket No. 98-136

To: The Commission

**COMMENTS OF PETROLEUM COMMUNICATIONS, INC.**

Petroleum Communications, Inc. ("PetroCom"), by its attorneys, respectfully submits the following comments in response to the Commission's Memorandum Opinion and Order and Notice of Proposed Rulemaking ("MO&O/NPRM"), released on July 29, 1998, in the captioned proceeding.

1. Introduction. PetroCom is a cellular radiotelephone licensee serving the Gulf of Mexico ("Gulf"). On May 21, 1996, Gulf Coast MDS Service Company ("Gulf Coast"), a PetroCom

subsidiary, filed a petition for rulemaking to amend Parts 21 and 74 of the Commission's rules with respect to licensing in the Multipoint Distribution Service ("MDS") for broadband wireless local loop service in the Gulf.<sup>1</sup> That petition is now pending before the Commission. PetroCom thus has an interest in the potential impact of the captioned proceeding on the provision of broadband fixed point-to-multipoint service (the likely dominant use of the 47 GHz band) and Commercial Mobile Radio Service ("CMRS") in the Gulf.<sup>2</sup>

2. Geographic Area Licensing in the 47 GHz Band. In the MO&O/NPRM, the Commission proposes to auction five paired channel blocks in the 47 GHz band in 12 Regional Economic Area Groupings ("REAGs").<sup>3</sup> The REAGs include six regional licenses in the continental United States and six additional regions to cover Alaska, Hawaii, three U.S. possessions, and the Gulf of Mexico.<sup>4</sup> The Commission's reasoning for using REAGs is that larger service areas will: "(1) encourage the rapid development and deployment of innovative service; (2) facilitate interoperability and the setting of standards; and (3) allow for economies of scale."<sup>5</sup> Further, the

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<sup>1</sup> Gulf Coast was subsequently merged into PetroCom.

<sup>2</sup> MO&O/NPRM at ¶¶ 18-30, 56 and n.3.

<sup>3</sup> Id. at ¶ 85.

<sup>4</sup> Id. at ¶ 83.

<sup>5</sup> Id. at ¶ 84.

Commission noted that the use of REAGs will simplify interference coordination and minimize transaction costs and disputes arising from interference.<sup>6</sup>

3. In the Second Report and Order in the captioned proceeding, the Commission decided to allow licensees the flexibility to provide any service technically possible in the 47 GHz band that comports with the agency's Table of Frequency Allocations.<sup>7</sup> The Commission also recognizes that licensees may provide CMRS in the 47 GHz band. In fact, the stratospheric platform operations proposed by Sky Station International, Inc. would provide "broadband Personal Communications Service (PCS) with video and Internet access capability, interconnected with the public switched telephone network."<sup>8</sup> The Commission thus anticipates regulating licensees as CMRS to the extent that they provide such service.<sup>9</sup>

4. On April 16, 1997, the Commission released an order requesting comments on licensing possibilities for other CMRS

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<sup>6</sup> Id.

<sup>7</sup> In the Matter of Amendment of Parts 2, 15, and 97 of the Commission's Rules To Permit Use of Radio Frequencies Above 40 GHz for New Radio Applications, International Harmonization of Frequency Bands Above 40 GHz, ET Docket No. 94-124, Petition of Sky Station International, Inc., For Amendment of the Commission's Rules To Establish Requirements for a Global Stratospheric Telecommunications Service in the 47.2-47.5 GHz and 47.9-48.2 GHz Frequency Bands, RM-8308, RM-8784, Second Report and Order, 12 FCC Rcd 10571, 10573 (1997).

<sup>8</sup> MO&O/NPRM at n.3.

<sup>9</sup> Id. at ¶ 56.

services in the Gulf.<sup>10</sup> The Commission specifically requested that in support of licensing additional CMRS in the Gulf a commenter should include "an analysis of the demand for such service, detailed definitions of potential Gulf service areas, service and coverage requirements, and interference standards that will adequately protect land-based service providers."<sup>11</sup> In the instant proceeding, however, the Commission has failed to consider whether there is sufficient demand for CMRS in the 47 GHz band in the Gulf to justify including the Gulf as an REAG. In the MO&O/NPRM, the Commission did not indicate that there is a demand for CMRS in the 47 GHz band in the Gulf before including the Gulf as an area subject to competitive bidding. Nor did the Commission request that commenters include an analysis of the demand for such service in the Gulf. Absent such a demand analysis, the Commission should not include the Gulf as an REAG for the 47 GHz band.<sup>12</sup>

5. The Commission has recognized that the Gulf is a unique environment and has typically handled CMRS licensing in the Gulf in

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<sup>10</sup> In the Matter of Cellular Service and Other Commercial Mobile Radio Services in the Gulf of Mexico, WT Docket No. 97-112, Amendment of Part 22 of the Commission's Rules to Provide for Filing and Processing of Applications for Unserved Areas in the Cellular Service and to Modify Other Cellular Rules, CC Docket No. 90-6, Second Further Notice of Proposed Rulemaking, 12 FCC Rcd 4576, 4601 (1997) [hereinafter Second FNPRM].

<sup>11</sup> Id.

<sup>12</sup> Further, the Commission has not proposed service and coverage requirements, and interference standards that will adequately protect land based service providers adjacent to the Gulf.

proceedings separate from licensing services on land.<sup>13</sup> Therefore, it would be arbitrary and capricious for the Commission to simply include the Gulf as an REAG subject to competitive bidding without taking into account the traditionally unique licensing environment for CMRS in the Gulf. Further, Commission precedent dictates that before additional CMRS services are licensed in the Gulf, a demand for the service must be shown and interference standards must be set which will be sufficient to protect land-based service providers. Until these conditions are met, the Gulf should not be included as an REAG in the 47 GHz band.

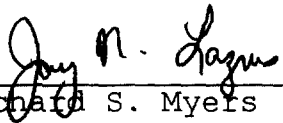
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<sup>13</sup> See, e.g., Second FNPRM, 12 FCC Rcd at 4576 (Cellular licensing in Gulf treated separately from land-based licensing); id. at 4599-4601 (Commission has not extended geographic licensing for SMR and PCS on land to the Gulf); see also In the Matter of Amendment of Parts 21 and 74 of the Commission's Rules With Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of Section 309 (j) of the Communications Act - Competitive Bidding, MM Docket No. 94-131 and PP Docket No. 92-253, 10 FCC Rcd 9589 (1995) (Gulf of Mexico not included in MDS rulemaking); In the Matter of Rulemaking to Amend Parts 1, 2, 21, and 25 Of the Commission's Rules to Redesignate The 27.5-29.5 GHz Frequency Band, To Reallocate the 29.5-30.0 GHz Frequency Band, To Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services Petitions for Reconsideration of the Denial of Applications for Waiver of the Commission's Common Carrier Point-to-Point Microwave Radio Service Rules, CC Docket No. 92-297, Suite 12 Group Petition for Pioneer Preference, PP-22, Second Report and Order, Order on Reconsideration, and Fifthe Notice of Proposed Rulemaking, 12 FCC Rcd 12545 (1997) (Gulf of Mexico not included in LMDS rulemaking).

6. For the reasons stated above, PetroCom opposes the Commission's designation of the Gulf as an REAG in the 47 GHz band.

Respectfully submitted,

PETROLEUM COMMUNICATIONS, INC.

By:   
Richard S. Myers  
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September 17, 1998

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